

## **REMARKS**

Upon entry of the foregoing Amendment, claims 1, 3-6, 10-13, and 30-33 are pending in this application. Claims 1, 3, 4, 5, and 13 are amended. Claims 19 and 21-27 were previously withdrawn. Claim 2 is cancelled without prejudice or disclaimer. Claims 7-9, 14-18, 20, and 28-29 were previously cancelled without prejudice or disclaimer. No new claims are added. Unless otherwise indicated, amendments to the claims were made for consistency only. This Amendment is supported by the specification as filed. Thus, no new matter is added.

In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

### ***Examiner Interview***

Applicant thanks Examiner Tan D. Nguyen for the courtesies extended to Applicant's representatives Rick Toering and Timothy Rooney during the Examiner Interview of July 20, 2006 (the "Examiner Interview"), the substance of which is discussed below.

### ***Rejections Under 35 U.S.C. § 112***

The Examiner has rejected claims 1-6, 10-13, and 30-33 under 37 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. For example, on page 3 of the Office Action dated February 24, 2006 (the "Feb. 2006 Office Action"), the Examiner cites features of independent claim 1 and argues that "it is not clear how these...steps are carried out."

As discussed in the Examiner Interview, Applicant traverses this rejection for at least the reason that one having ordinary skill in the art would find this subject matter sufficiently described in the specification in such a way as to make and use the invention. As such, this rejection must be withdrawn.

The Examiner has also rejected claims 1-6, 10-13, and 30-33 under 37 U.S.C. §112, second paragraph, as allegedly failing to point out and distinctly claim the subject

matter regarded as the invention. For example, on page 4 of the Feb. 2006 Office Action, in items (1), (2), and (3), the Examiner questions the clarity of several portions of independent claim 1. Applicant disagrees with the points raised by the Examiner in items (1), (2), and (3), for at least the reason that independent claim 1, prior to the foregoing Amendment, would be clear to one having ordinary skill in the art. However, as discussed in the Examiner Interview, Applicant has amended independent claim 1 solely for the purposes of expediting prosecution, to further clarify that which the applicant regards as the invention.

The Examiner also questions the clarity of portions of independent claim 1 in points (4), (5), and (6) on pages 4 and 5 of the Feb. 2006 Office Action. Applicant traverses the rejection of claim 1 based upon points (4), (5), and (6), for at least the reason that one having ordinary skill in the art would find these portions of claim 1 clear.

On page 5 of the Feb. 2006 Office Action, the Examiner argues that insufficient antecedent basis exists for portions of claim 3. Solely to expedite prosecution, Applicants have amended claim 3 to remove any alleged informalities.

For at least the reasons given above, the rejection of claims 1, 3-6, 10-13, and 30-33 under 35 U.S.C. §112, must be withdrawn.

### ***Rejections Under 35 U.S.C. § 102***

The Examiner has rejected claims 1-6, 10-13 and 30-33 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,446,200 to Ball *et al* ("Ball"). Applicant traverses this rejection for at least the reason that Ball fails to disclose each and every feature of the invention.

For example, Ball fails to disclose at least the following features set forth in independent claim 1 prior to the foregoing Amendment:

*"determining at least one value of a variable associated with at least one of the service parameter, the component parameter, or a result of the component to service parameter mapping that indicates a service level of at least one of the plurality of services...[and]...taking an action... to determine the service level of the at least one of the plurality of services from the at least one value of the variable..."*

As discussed in the Examiner Interview, Ball relates to a system for “collecting and aggregating data from network entities.” Ball, Abstract. Ball monitors quality of service (QoS) as a “statistical phenomenon,” and uses a “large number of samples, over a long period of time.” Ball, col. 32, ll. 28-31. These and other portions of Ball demonstrate that Ball does not monitor component parameters that are then specifically related to service parameters of a service to determine the service level of the service. Applicant submits that these distinctions are clear in light of the claims as written prior to the foregoing Amendment. Nevertheless, as discussed in the Examiner Interview, Applicants have amended the claims to more clearly point out the features of the claimed invention, solely in an effort to expedite prosecution.

For at least this reason, Ball does not disclose each and every feature of the claimed invention. Accordingly, the rejection of claim 1 should be withdrawn. Claims 3-6, 10-13 and 30-33 depend from and add features to independent claim 1. Thus, the rejection of these claims must also be withdrawn.

### ***Rejections Under 35 U.S.C. § 103***

As an alternative to the above rejection under 35 U.S.C. §102(e), the Examiner has rejected claims 1-6, 10-13 and 30-33 under 35 U.S.C. §103(a) as allegedly being obvious in light of Ball. Applicant traverses these rejections for at least the reason that the references relied upon by the Examiner do not teach or suggest each and every feature of the claimed invention.

By alternatively rejecting the claimed invention under 3.5. U.S.C. 103(a), the Examiner strengthens Applicant's position that Ball does not disclose each and every feature of the invention. Furthermore, the Examiner has not described the differences between Ball and the claimed invention and discussed how those differences would be obvious to one of ordinary skill in the art. As such, the Examiner has failed to set forth a *prima facie* case of obviousness. Nevertheless, as set forth above, Ball does not disclose each and every feature of independent claim 1. Accordingly, Ball does not teach or suggest all of the features of independent claim 1.


For at least these reasons, the rejection of claim 1 under 35 U.S.C. §103 must be withdrawn. Claims 3-6, 10-13 and 30-33 and 11-17 depend from and add features to independent claim 1. Thus, the rejection of these claims must also be withdrawn.

### ***Conclusion***

Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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